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SUBJECT: NIGERIA: FY 2010 PROHIBITION ON ASSISTANCE TO CENTRAL
GOVERNMENTS WHOSE BUDGETS ARE NOT TRANSPARENT

REF: 10 STATE 1923; 09 ABUJA 626

¶1. (U) The following is Embassy Abuja's response to the questions contained in Reftel A.

¶2. (U) SFOAA funding: The Government of Nigeria is expected to receive U.S. foreign assistance, using FY 2010 funds, for the U.S. President's Emergency Plan for AIDS Relief (PEPFAR), International Military Education and Training (IMET), Foreign Military Financing (FMF), and technical assistance and training through USG-funded implementing partners.

¶3. (U) Public availability: The Nigerian federal budget is a public document. The enacted federal budget is available in both print and electronic form soon after it is approved by the National Assembly and signed by the President. Hard copies can be obtained from the Clerk's Office in both houses of the National Assembly. Electronic versions can be obtained from two government websites: www.budgetoffice.gov.ng and www.fmf.gov.ng. Formal public audits of government accounts are conducted and end-of-year outcomes reports are published, but with a lengthy lag. The first end-of-year outcome report was published for FY 2004. The Debt Management Office publishes debt, but not grants, received from bilateral and multilateral sources.

¶4. (U) Incomes and expenditures: Incomes and expenditures are included in the enacted federal budget. Expenditures are provided in much more detail than incomes, but this is because the majority of projected income is oil and gas income, which is based on a projected average annual oil price and a projected average annual production level. The President's annual budget speech provides the assumptions behind the income and expenditure numbers. The Ministry of Finance also publishes every month the distribution of all revenues to the federal, state, and local levels of government. This information is published in the local newspapers and posted on the above-mentioned government websites.

¶5. (SBU) Post assessment: The federal budget is a plan, not an actual statement of spending. There is a significant difference between budgeted and actual expenditures, or under-spending, but this is largely due to a lack of implementing capacity when it comes to capital spending, rather than a lack of transparency. Recurrent expenditures, which consist primarily of government salaries, are fully spent. There is also a significant difference between budgeted and actual incomes, due to fluctuations in international oil prices and domestic oil production. The combination of lower oil prices due to the global recession and lower oil production due to the damage of pipelines and oil terminals by militants contributed to a major reduction in oil

revenues in 2009. There was also a significant decline in non-oil revenues. Lower oil and non-oil revenues led to drastic decline in income.

¶6. (SBU) Since 2009. The National Assembly passed the Fiscal Responsibility Act of 2007 to ensure transparency in the use of government revenues. The Fiscal Responsibility Act provided for the establishment of the Fiscal Responsibility Commission to monitor government budgetary practices and consistency with the Act. This Fiscal Responsibility Commission was in the process of establishing itself in 2009. The new Chairman of the Commission acted independently, published positive articles in the press, and visited the World Bank in Washington in November/December 2009 seeking advice on how to manage the Committee. The Fiscal Responsibility Act had been passed in 11 states and was at various states of enactment in the remaining 25 states as of the end of ¶2009. The National Assembly also passed the Public Procurement Act of 2007 to ensure transparency and value-for-money in government procurement. The Public Procurement Act also had been passed in some states as of the end of 2009. The World Bank, the African Development Bank, USAID, and the U.K. Department for International Development have agreed under the World Bank-led Country Partnership Strategy II to continue efforts to build the capacity of state governments to introduce fiscal responsibility legislation and public procurement reform. The World Bank is leading a donor's group to promote these reforms in collaboration with the Ministry of Finance.

¶7. (SBU) The Federal Government resorted to increased use of the Excess Crude Account, or "rainy day" fund, to make up for shortfalls in budgeted non-oil revenues in 2009. These expenditures were distributed between the federal, state, and local levels of government and were not part of the financing plan that was presented to the National Assembly, and not part of the checks and balances represented by the federal, state, and local governments, and the National Assembly.

¶8. (SBU) Government efforts. The National Assembly has continued to step up its monitoring and oversight of the budget process since the new set of law makers came into office in May 2007. The proposed Petroleum Industry Bill (PIB) is expected to receive its third and final reading in early 2010. The PIB seeks to increase the GON's share of oil and gas revenues from mandated joint ventures, unbundles the existing state-owned Nigerian National Petroleum Corporation (NNPC), and creates three independent regulators for the upstream, midstream and downstream industries. These regulators would monitor revenues and the USG has been asked for help to help establish these regulatory bodies. The revenues would be monitored by the regulators and would go directly to the Ministry of Finance, bypassing the NNPC and all other existing intermediaries. This would be a major step forward in increasing budget transparency because oil and gas revenues constitute an estimated 85 percent of current central government revenues.

¶9. (SBU) Elsewhere, the National Assembly passed the Nigerian Extractive Industry Transparency Initiative (NEITI) law in 2007. NEITI released in 2009 its audit of Nigeria's 2005 oil and gas revenues. This audit has been accepted by the Federal Executive Council (or cabinet), presented by the President to the National Assembly, and published. In addition, NEITI fully procured audits for the years 2006-2008 and plans to release, present, and publish these audits in the same manner. The GON has also agreed to have an independent validator verify fulfillment of the agreed-upon Extractive Industry Transparency Initiative (EITI) standards.

¶10. (SBU) USG/Post actions. The USG has supported effective implementation of NEITI since the NEITI law was passed in 2007. USAID resources supported effective oversight of the implementation of NEITI in 2009. USAID participated in a UNDP-chaired donor group

in 2009 that worked with the Nigerian Governors Forum to improve fiscal transparency among Nigeria's 36 states. Specifically, USAID had a consultant working with the state governments on state fiscal responsibility legislation. USAID will continue its assistance to build the capacity of the Bauchi and Sokoto state governments to introduce fiscal responsibility legislation and public procurement reform through its new Leadership, Empowerment, and Advocacy and Development (LEAD) project. USAID conducted an assessment to identify states in the oil-producing Niger Delta that work with donors and the GON as EITI lead-states. Bayelsa State, for example, has adopted EITI at the state level (BEITI). Bayelsa State has signed an MOU with the USG to finance USAID-managed technical assistance to promote fiscal responsibility legislation and public procurement reforms. However, Bayelsa State has not yet provided the necessary financing to USAID. Introducing fiscal responsibility legislation and public procurement reform in the states is a major step forward because approximately 50 percent of central government revenues are transferred to the state and local governments and it is in this half of central government "expenditures" where greater budget transparency is most needed.

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